

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

GWENDOLYN L. BOHANNON

PLAINTIFF

VS.

CASE NO. 5:07CV00123 JMM

JOHNSON FOOD EQUIPMENT, INC., ET AL.

DEFENDANT

TYSON POULTRY, INC., AND TYNET CORP.

INTERVENORS

ORDER

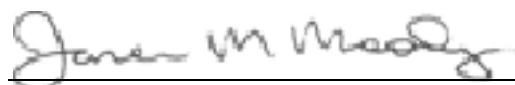
This case was tried to a jury in April of 2009 with the jury returning a verdict of \$4,500,000.00 which was subsequently set aside based upon the Arkansas Supreme Court's decision that Arkansas Code Annotated § 16-55-202 was unconstitutional, *see Johnson v. Rockwell Automation, Inc.*, 2009 Ark. 241, ___ S.W.3d ___, 2009 WL 1218362 (Ark 2009).

The trial has been rescheduled for March 1, 2010. When the Court issued the rescheduling order, it did not reopen discovery or allow for the designation of new experts or other witnesses. Defendant, who has new counsel, has moved to reopen discovery, to establish new discovery deadlines, and to identify new expert and fact witnesses based upon new counsel's anticipated trial strategy.

Counsel's strategic decisions regarding litigation of this case is an insufficient basis to reopen discovery. Moreover, defendant has failed to demonstrate that it would suffer manifest injustice if it were denied new discovery, or that if there were some injustice, how that injustice would outweigh the prejudice to the plaintiff.

The motion is denied (#209).

IT IS SO ORDERED THIS 11 day of September, 2009.

A handwritten signature in dark ink, appearing to read "James M. Moody", is written over a horizontal line.

James M. Moody
United States District Judge